

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Fang Cong

_____,

Plaintiff(s),

v.

Xue Zhao

_____,

Defendant(s).

CASE NO. 2:21-cv-01703-TL

COMPLAINT FOR A CIVIL CASE

Jury Trial: ☐ Yes ☒ No

I. The Parties to This Complaint

Plaintiff(s)

Name	Fang Cong
Address	CainiaoYizhan, 34F, Wenhua District, Luofeng Street, Zhaoyuan, Yantai, ShanDong, China
Zip Code	265400
Telephone Number	+86 15806514838

Defendant(s)

Defendant No. 1

Name	Xue Zhao(Agent:LIAONING FADA LAW FIRM, Lawyer Ping Sun)
Job or Title (<i>if known</i>)	
Address	38F Xiwang Tower, No.136 Zhongshan Road, Zhongshan Dist Dalian, China
Zip Code	116000
Telephone Number	(86-411)8252 0188

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and

the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction?

☒ Federal question ☐ Diversity of citizenship

III. Statement of Claim

1、This is a case of copyright infringement and is therefore within the jurisdiction requirement of this Court.

2、Plaintiff, Fang Cong (“Plaintiff”), a self-employed person, an adult Chinese citizen, female.

3、Defendant, Xue Zhao (“Defendant”), developer and publisher, an adult Chinese citizen, female.

4、*Things as They Are (Demo version)* is a game available for free, published on July 30, 2016 (CST) by the Defendant in China.

5、*Things as They Are* (沉睡的法则) is a game sales on Steam, published on June 18, 2019 (CST) by the Defendant.

6、Steam is a video game digital distribution service by Valve. Valve Corporation, also known as Valve Software, is an American video game developer, publisher, and digital distribution company headquartered in Bellevue, Washington.

7、In 2013, the Plaintiff designed a original game LOGO. The Plaintiff's copyright shall be protected in the United States, as established by The Berne Convention, and Copyright Law of the United States (Title 17), Chapter 1, 104(b)(2).

8、On December 26, 2013 (CST), the Defendant (166384115@qq.com) requested the layered PSD file of the LOGO from the Plaintiff (nazna_g@qq.com) by email.

9、On December 27, 2013 (CST), the Plaintiff (nazna_g@qq.com) sent the layered PSD source file of the LOGO to the Defendant (166384115@qq.com) by email.

10、On December 28, 2013 (CST), the Defendant (166384115@qq.com) replied to the Plaintiff (nazna_g@qq.com) that the layered PSD source file of the LOGO was received by email.

11、The LOGO designed by the Plaintiff was used by the game *Things as They Are (Demo version)* until 2018.

12、In 2017, the Plaintiff designed a original symbol for shrine. The Plaintiff's copyright shall be protected in the United States, as established by The Berne Convention, and Copyright Law of the United States (Title 17), Chapter 1, 104(b)(2).

13、On October 24, 2017 (CST), the Plaintiff (nazna_g@qq.com) sent four design sketches to Defendant (166384115@qq.com) by email.

14、The Defendant communicate with the Plaintiff and selected one of the four design sketches by Tencent QQ.

15、After that, the Plaintiff finished the design of the symbol and sent the layered PSD source file of the symbol to the Defendant by Tencent QQ.

16、The symbol designed by the Plaintiff, for shrine, was used by the game *Things as They Are (Demo version)* until 2018.

17、The cooperation between the two parties is free and without agreement.

18、In June 2018, the Plaintiff ended the cooperation with the Defendant, took back the license of the LOGO and the symbol for shrine. The Defendant had full knowledge and consent to this.

19、On June 20, 2018 (CST), the Defendant used the account "四块二茶会", on Weibo, posted an announcement which contained a message that the Plaintiff was withdrawing from the production of the game *Things as They Are* .

20、On June 18, 2019 (CST), the Defendants used the account "四块二茶会", on Steam, published the game *Things as They Are* which contained two designs that infringed the Plaintiff's copyright.

21、In August 2019, the Plaintiff sought legal advice from a lawyer. After that, the Plaintiff hired the lawyer to defend rights.

22、On August 29, 2019 (CST), the Plaintiff used evidence preservation services at the Qingdao Shizhong Notary Public Office of Shandong Province (中国青岛市市中公证处). Evidence preservation includes:

a) Articles 9 and 13 of this statement.

b) On April 28, 2017 (CST), the Defendant used the account "四块二茶会", on Weibo, forwarded an interview about "四块二茶会" which published on April 25, 2017 (CST). In this interview, the Defendant (using the nickname "回转寿司") personally admitted that the LOGO of the game was designed by the Plaintiff (using the nickname "祖拉").

23、On May 26, 2021 (CST), the Plaintiff used the account "接触不良 N", on Weibo, published an article. In this article, the Plaintiff believed that the new game LOGO and the new symbol for shrine used in the game *Things as They Are* have incorrectly copied the Plaintiff's design, have reached substantial similarity, and infringed the Plaintiff's copyright. In this article, The Plaintiff wished to settle the dispute with the Defendant in Chinese courts.

24、On May 27, 2021 (CST), the Defendant used the account "四块二茶会", on Weibo, published an article. In this article, the Defendant unreasonably refused to admit the fact of the infringement and refused to respond to the lawsuit. This article has over 500 likes.

25、On June 26, 2021 (CST), the Plaintiff used the account "接触不良 N", on Weibo, published an article. In this article, the Plaintiff refuted the Defendant's arguments and offered to give the personal information to the Defendant, who would initiate the lawsuit.

26、On August 1, 2021 (CST), the Defendant used the account "四块二茶会", on Weibo, published an article. In this article, the Defendant again unreasonably refused to admit the fact of its infringement, while once again expressing its unwillingness to respond to the lawsuit. This article has over 100 likes.

27、From July to August of 2021, the Plaintiff described the facts of the infringement of the game *Things as They Are* to Valve and submitted relevant evidence.

28、On December 4, 2021 (CST), Valve(dmca@valvesoftware.com) sent an email to Plaintiff (congff@foxmail.com) and said that they have removed the game.

29、On December 8, 2021 (CST), Valve(dmca@valvesoftware.com) sent an email to Plaintiff (congff@foxmail.com) and said that the Defendant filed a Counter-Notice against the copyright complaint. **Base on this Counter-Notice, the United States, the Federal District Court for Western Washington, where Valve is located, is the proper jurisdiction and venue for this**

case.

30、Counter-Notice submitted by the Defendant.

- a) Identification of the material that Valve removed or disabled access to, and the location at which it previously appeared.
https://store.steampowered.com/app/965820/_Things_as_They_Are/
- b) I, Xue Zhao, hereby state, under penalty of perjury, that I have a good faith belief that Valve removed that material due to mistake or misidentification of the material to be removed or disabled.
- c) Name Xue Zhao (Agent: LIAONING FADA LAW FIRM, Lawyer Ping Sun)
Mailing Address 38F Xiwang Tower, No.136 Zhongshan Road, Zhongshan Dist Dalian China
Telephone number (86-411)8252 0188
- d) I, Xue Zhao, living outside the United States, hereby consent to the jurisdiction of U.S. District Court the federal District Court for Western Washington, where Valve is located. I further promise that I will accept service of process from the person who provided the notice of alleged copyright infringement (or an agent of that person).
- e) /signature/

iv. Relief

31、Based on the above statements:

- a) There is sufficient evidence that the Defendant has had direct contact with the Plaintiff's designs.
- b) The Plaintiff had very clearly asserted the copyright. But the Defendant refused to recognize the Plaintiff's rights and refused to respond to the lawsuit.
- c) On that premise, Defendants have infringed Plaintiff's copyright, continuously and intentionally.

32、The Plaintiff has suffered, and will continue to suffer, damages as follows:

- a) Copyright infringement;
- b) Loss of diminution of earning or earning capacity;
- c) Legal services and related fees paid.

33、**WHEREFORE**, the Plaintiff wants the court to hold a trial against the Defendant and:

34、Stop infringement:

- a) The defendant shall immediately and fully take down the game and make changes to the infringing designs.
- b) The newly created designs should be mutually approved by both parties.
 - i. The Defendant shall send the newly created designs to Plaintiff's email address (nazna_g@qq.com) so that Plaintiff can check them.
 - ii. The newly created designs should be published only with the written consent of the Plaintiff.

35、Apology: The Defendant shall publicly and promptly apologize to the Plaintiff at all locations where the game has been promoted and published.

- a) Apology locations include but are not limited to:

- i. Steam
- ii. Weibo: <https://weibo.com/42mao>
- iii. Lofter: <https://42mao.lofter.com>
- iv. Bilibili: <https://space.bilibili.com/390742268>
- v. HeyBox: <https://www.xiaoheihe.cn/games/detail/965820>
- b) The apology should be set TOP (placed above all content).
- c) The apology should be mutually approved by both parties.
 - i. The Defendant shall send the apology to Plaintiff's email address (nazna_g@qq.com) so that Plaintiff can check it.
 - ii. The apology should be published only with the written consent of the Plaintiff.
- d) The Defendant shall publish the apology within three months after the verdict is reached.
- e) The apology should be retained for at least one month.

36. Damages: The Plaintiff seeks compensation from the Defendant for the legal services and related costs incurred by the Plaintiff, and 20% of the sales of the game as damages, as established by Copyright Law of the United States (Title 17), Chapter 5, 504(b).

v. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 18/12/2021

Signature of Plaintiff

A handwritten signature in black ink, appearing to read "Fang Cong". The script is cursive and fluid.

Printed Name of Plaintiff

Fang Cong